



**VOSH PROGRAM DIRECTIVE: 12-246A**

**ISSUED: February 15, 2004**

**SUBJECT: Overhead High Voltage Line Safety Act (Va. Code §§ 59.1-406 through 59.1-414)**

**A. Purpose.**

**CHANGE I:** This Directive formally transmits the above-referenced 1989 directly enforceable statutory standard to field personnel. **CHANGE II** transmits to field personnel the 2003 legislative revisions to the Overhead High Voltage Line Safety Act.

**B. Scope.**

This Directive applies to all VOSH personnel and specifically to Occupational Safety Compliance and Cooperative Programs personnel.

**C. References.**

Overhead High Voltage Line Safety Act, Va. Code §§ 59.1-406 through 59.1-414 (Chapter 341 of the Laws of 1989).

Overhead High Voltage Line Safety Act, Va. Code §§ 59.1-406 through 59.1-414 also as amended by Chapter 364 of the Laws of 2003.

**D. Cancellation.**

VOSH Program Directive 12-246 (8/1/92).

**E. Action.**

Directors and Managers shall ensure that field personnel understand and comply with the requirements of the Overhead High Voltage Line Safety Act.

**F. Effective Dates of the Act and Amendments.**

CHANGE I: July 1, 1989.

CHANGE II: July 1, 2003

**G. Expiration Date.**

Not Applicable.

**H. Background.**

**CHANGE I:** The Overhead High Voltage Line Safety Act ("OHVLSA"), §§59.1-406 through 59.1-414 of the *Code of Virginia*, was "enacted to promote the safety and protection of persons engaged in work or activity in the vicinity of overhead high voltage lines." (§59.1-406) It "defines the conditions under which work may be carried on safely and provides for the safety arrangements to be taken when any person engages in work or other activity in proximity to overhead high voltage lines." (Id.)

**CHANGE II:** During its 2003 session, the General Assembly amended §§59.1-407 through 59.1-411 and 59.1-414 of the *Code of Virginia*.

**I. Summary.**

**CHANGE I:** OHVLSA protects all persons responsible for work or activity being performed in the vicinity of overhead high voltage lines. Violations of existing VOSH standards that are more stringent than requirements of OHVLSA or that cover hazards not addressed by OHVLSA shall also be cited in accordance with procedures in the Field Operations Manual (FOM). If a violation of identical provisions of OHVLSA and VOSH standards occurs, OHVLSA shall be cited.

In addition to the provisions of OHVLSA which are discussed below, in comparison with the Electrical Safety-Related Work Practices standard, §§1910.331 through 1910.335, OHVLSA provides other requirements as well. Section 59.1-411 requires that the owner or operator of the high voltage line be notified at least forty-eight hours (excluding Saturday, Sunday, and holidays) prior to the start of the work or activity which is to be performed in closer proximity to the overhead high voltage line than permitted by OHVLSA. This section also lists the information required to be contained in the notice served by any person on an owner or operator of an overhead high voltage line.

Temporary safety arrangements are to be made between the owner or operator of the overhead high voltage lines and the employer seeking to work in close proximity to those power lines. These arrangements include: 1) placement of temporary mechanical barriers separating and preventing contact between material, equipment, or persons and overhead high voltage lines; 2) temporary de-energization and grounding; 3) temporary relocation or raising of the lines; or 4) other such measures found to be appropriate in the judgment of the owner or operator of the lines.

Virginia Code §59.1-408(1) of the OHVLSA, which addresses prohibited activities, applies to all persons responsible for work being performed in the vicinity of high voltage lines, unless exempted, and prohibits the placing of individuals or the use of tools within 6 feet of high voltage power lines. Subsection (2) of this section prohibits any person from operating any covered equipment within 10 feet of any overhead high voltage line, unless the covered equipment is lawfully driven or transported on public streets and highways in compliance with the height restriction imposed by §46.1-329 of the *Code of Virginia*.

In contrast, Table S-5 of the Electrical Safety-Related Work Practices standard, "Approach Distances for Qualified Employees--Alternating Current," allows smaller clearances from overhead high voltage lines (less than 6 feet) for a qualified person with proper insulation or guarding. Table S-5 would permit a qualified person to work within a foot of a 600-volt line.

Section 59.1-409 of OHVLSA specifically addresses the posting and maintenance of warning signs on covered equipment capable of being operated in the proximity of high voltage power lines. Section 1910.335(b)(1) of the Safety-Related Work Practices standard generally requires the use of safety signs, safety symbols, and tags to warn employees about electrical hazards which may endanger them.

With respect to training, OHVLSA at § 59.1-409B requires the owner, lessee, or employer of any covered equipment "...to acquaint themselves and their employees who will be operating the equipment or will be engaged in the work operations within the provisions of this chapter (§59.1-406 et seq.) and the regulations prescribed and promulgated pursuant to it." The Electrical Safety-Related Work Practices Standard, in §1910.332 (a) and (b), requires that any employee who faces a risk of electrical shock be trained.

Section 59.1-413 of OHVLSA exempts from this Act's application overhead electrical or communication circuits or conductors of (1) rail transportation systems, (2) electrical generating, transmission or distribution systems, (3) communication systems, or (4) any other publicly or privately owned system performed by the employee of the owner or operator of the systems or independent contractors engaged on behalf of the owner or operator of the system to perform the work.

Section 59.1-413 of OHVLSA exempts from coverage work performed by employees or independent contractors on behalf of the owner or operator of a power line system (e.g., trimming trees near the lines). Section 1910.331(c)(1) of the Electrical Safety-Related Work Practices standard does not, for example, apply to tree trimming operations performed near overhead power lines **as long as qualified employees are performing the work.**

**CHANGE II:** During its 2003 session, the General Assembly approved the following changes to the Overhead High Voltage Line Safety Act:

Anyone wanting to work within ten (10) feet of overhead high voltage lines, whether it is covered equipment, tools or workers, must notify the owner or operator of the lines prior to commencing the work.

Previously, notification was only required for workers or their tools when they would come within six (6) feet.

After July 1, 2003, a citation would be appropriate for working within ten (10) feet of overhead lines unless they have been protected in some way.

Even if notification of the intent to work has been made, the employer must wait until the safety precautions are in place before commencing work;

After July 1, 2003, a citation would be appropriate for working within ten (10) feet of an overhead line even if notification has been made when the safety precautions are not in place.

Agricultural and forestry employers covered equipment that is less than 13 feet, 6 inches is exempt from the Act and may operate on the farmers or foresters land without restriction.

Agricultural and forestry employers are not required to notify the owner of the overhead lines when they work near the lines. The law still applies to them and they have to stay the required distances away and take precautions to protect their employees if they need to work near the lines. They must also train their employees and use the appropriate signage for their equipment. Should a forester or a farmer not train or take steps to protect their employees, they would still be liable for citation under the OHVLSA.

C. Ray Davenport  
Commissioner

Attachment: Overhead High Voltage Line Safety Act, §§59.1-406 through 59.1-414 of the *Code of Virginia*, as amended

e-attachment:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC590100000300000000000000>

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## CHAPTER 30

### Overhead High Voltage Line Safety Act 59.1-411 through 59.1-414

#### § 59.1-406. Scope.

This chapter (§§ 59.1-406 et seq.) is enacted to promote the safety and protection of persons engaged in work or activity in the vicinity of overhead high voltage lines. The chapter defines the conditions under which work may be carried on safely and provides for the safety arrangements to be taken when any person engages in work or other activity in proximity to overhead high voltage lines.

(1989, c. 341.)

#### § 59.1-407. Definitions.

As used in this chapter:

"Covered equipment" means any mechanical equipment or hoisting equipment, any part of which is capable of vertical, lateral or swinging motion that could cause the equipment to be operated within ten feet of an overhead high voltage line, including but not limited to cranes, derricks, power shovels, drilling rigs, excavating equipment, hay loaders, hay stackers, combines, grain augers and mechanical cotton pickers.

"Notice" means actual notification in the manner prescribed in §§ [59.1-411](#).

"Overhead high voltage line" means all above ground bare or insulated electrical conductors of voltage in excess of 600 volts measured between conductors or measured between a conductor and the ground, except those conductors that are de-energized and grounded or that are enclosed in rigid metallic conduit or flexible armored conduit.

"Person" means natural person, firm, business association, company, partnership, corporation or other legal entity.

"Person responsible for the work" means the person performing or controlling the work.

"Warning sign" means a weather-resistant sign of not less than five inches by seven inches with a yellow background and black lettering reading as follows: "WARNING - UNLAWFUL TO OPERATE THIS EQUIPMENT WITHIN 10 FEET OF OVERHEAD HIGH VOLTAGE LINES" or such other equally effective warning signs as may be approved for use by the Virginia Safety and Health Codes Board or the Commissioner of Labor and Industry.

"Work" means the physical act of performing or preparing to perform any activity under, over, by, or near overhead high voltage lines, including, but not limited to, the operation, erection, handling, storage, or transportation of any tools, machinery, ladders, antennas, equipment, covered equipment, supplies, materials, or apparatus, or the moving of any house or other structure, whenever such activity is done by a person or entity in pursuit of his trade or business.

"Working day" means every day except Saturdays, Sundays, and legal state and federal holidays.

(1989, c. 341; 2003, c. 364.)

### **§ 59.1-408. Prohibited activities.**

Unless danger of contact with overhead high voltage lines has been guarded against as provided by § [59.1-410](#):

1. No person shall, individually or through an agent or employee, perform, or require any other person to perform, any work, as defined in §§ [59.1-407](#), that will cause any person or tools, machinery, ladders, antennas, equipment, covered equipment, supplies, materials, or apparatus to be placed within 10 feet (3.1 meters) of any overhead high voltage line.
2. A clearance greater than 10 feet (3.1 meters) may be required under the circumstances by the occupational safety and health regulations adopted by the Safety and Health Codes Board pursuant to Chapter 3 (§ [40.1-22 et seq.](#)) of Title 40.1 and enforced by the Commissioner of Labor and Industry.
3. The prohibited activities as described in this section shall not apply to covered equipment as defined herein when lawfully driven or transported on public streets and highways in compliance with the height restriction imposed by § [46.2-1110](#), nor shall they apply to covered equipment, when used in agricultural or silvicultural activities, that is in compliance with the height restrictions imposed by § [46.2-1110](#) when driven or transported on land used for agricultural or silvicultural activities.

(1989, c. 341; 1995, c. 298; 2003, c. 364.)

### **§ 59.1-409. Warning signs.**

A. No person shall, individually or through an agent or employee, or as an agent or employee, operate any covered equipment in the proximity of an overhead high voltage line unless there is posted and maintained a warning sign placed as follows:

1. Within the equipment and readily visible and legible to the operator of such equipment when at the controls of such equipment; and
2. On the outside of equipment in such numbers and locations as to be readily visible and legible at 12 feet to other persons engaged in the work operations.

B. It shall be the duty and responsibility of the owner, lessee, or employer of any covered equipment to acquaint themselves, and their employees who will be operating the equipment or will be engaged in work, with the provisions of this chapter and the regulations prescribed and promulgated pursuant to it.

(1989, c. 341; 2003, c. 364.)

### **§ 59.1-410. Temporary safety arrangements.**

A. When any person desires to carry on any work in closer proximity to any overhead high voltage line than permitted by this chapter, the person responsible for the work shall promptly notify the owner or operator of the high voltage line on a working day, or in emergency situations as soon as possible under the circumstances, in the manner prescribed in §§ [59.1-411](#). The work shall be performed only after satisfactory mutual arrangements have been negotiated between the owner or the operator of the lines or both and the person responsible for the work. The negotiations shall proceed promptly and in good faith with the goal of accommodating the requested work consistent with the owner's or operator's service needs and the duty to protect the public from the danger of overhead high voltage lines. The owner or operator of the lines shall initiate the agreed upon safety arrangements within five working days from the date of the request of the person responsible for the work. The owner and operator of the lines shall complete the work promptly and without interruption, consistent with the

owner's or operator's service needs. Arrangements may include (i) placement of temporary mechanical barriers separating and preventing contact between material, equipment, or persons and overhead high voltage lines, (ii) temporary de-energization and grounding, (iii) temporary relocation or raising of the lines, or (iv) other such measures found to be appropriate in the judgment of the owner or operator of the lines. The person responsible for the work shall ensure that the temporary safety arrangements described in this subsection are completed prior to the commencement of any such work.

B. The actual expense incurred by any owner or operator of overhead high voltage lines in taking precautionary measures as set out in subsection A of this section, including the wages of its workers involved in making safety arrangements, shall be paid by the person responsible for the work or a person subject to the following exceptions:

1. In the case of property used for residential purposes, such actual expenses shall be limited to those in excess of \$1,000;
2. Whenever any owner or operator of an overhead high voltage line has located its facilities within a public highway or street right-of-way and the work is performed by or for the Department of Transportation or a city, county or town, the actual expenses shall be the responsibility of the owner or operator of the overhead high voltage lines, unless the owner or operator can provide evidence of prior rights or there is a prior written agreement specifying cost responsibility; and
3. Whenever it is determined by the Department of Transportation or a city, county or town that the temporary safety arrangements are for the sole convenience of its contractor, the actual expense shall be the responsibility of the contractor.

C. When requested by a person, an owner or operator of a high voltage line shall provide within a reasonable period of time an estimate of the scope and cost of any required safety arrangements.

(1989, c. 341; 1993, c. 284; 1995, c. 298; 1996, c. 267; 2003, c. 364.)

#### **§ 59.1-411. Notification.**

A. Every notice served by any person on an owner or operator of an overhead high voltage line pursuant to §§ [59.1-410](#) shall contain the following information:

1. The name of the individual serving such notice;
2. The location or address of the tract or parcel of land upon which the work is to take place with sufficient particularity to enable the owner or operator of the overhead high voltage lines to ascertain the precise tract or parcel of land involved;
3. The name, address and work day telephone number of the person responsible for the work;
4. The field telephone number at the site of such work, if one is available;
5. The type and extent of the proposed work;
6. The name of the person for whom the proposed work is being performed;
7. The time and date of the notice; and
8. The dates upon which the work is scheduled to commence and be completed.

B. If the notification required by this chapter is made by telephone, a record of such notification shall be maintained by the owner or operator notified and the person giving the notice to document compliance with the requirements of this chapter.

C. To facilitate notification required by this chapter, every operator of overhead high voltage lines shall publish a phone number or numbers that, when called, will serve to provide initial notification of the need to arrange for the temporary safety arrangements pursuant to this chapter.

D. If, after the arrangements required by §§ [59.1-410](#) are made, a delay in commencing the work is encountered, then the person responsible for the work shall be required to give a new notice as specified in this section.

E. The provisions of this section shall not apply to the owner or leaseholder of real estate devoted to agricultural or silvicultural activities beneath a high voltage line, unless otherwise required by state or federal law.

(1989, c. 341; 1995, c. 298; 1996, c. 267; 2003, c. 364.)

### **§ 59.1-412. Enforcement of chapter.**

The provisions of this chapter shall be considered as safety and health standards of the Commonwealth and enforced as to employers pursuant to § [40.1-49.4](#) by the Commissioner of Labor and Industry.

In the case of violations of this chapter over which the Commissioner of Labor and Industry does not have enforcement powers pursuant to § [40.1-49.4](#), a civil penalty of up to \$1,000 may be imposed at the discretion of the general district court for the jurisdiction in which the offense occurred.

(1989, c. 341.)

### **§ 59.1-413. Exemptions.**

This chapter shall not apply to the construction, reconstruction, operation, and maintenance of overhead electrical or communication circuits or conductors and their supporting structures and associated equipment of (i) rail transportation systems, (ii) electrical generating, transmission or distribution systems, (iii) communication systems, including cable television, or (iv) any other publicly or privately owned system provided that such work on any of the foregoing systems is performed by the employees of the owner or operator of the systems or independent contractors engaged on behalf of the owner or operator of the system to perform the work.

This chapter also shall not apply to electrical or communications circuits or conductors on the premises of coal or other mines which are subject to the provisions of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. §§ 801 et seq.) and regulations adopted pursuant to that Act by the Mine Safety and Health Administration.

(1989, c. 341.)

### **§ 59.1-414. Application.**

A. The owner or operator of overhead high voltage lines shall not be liable for damage or loss to any person or

property caused by work within 10 feet of overhead high voltage lines, unless notice has been given as required by § [59.1-411](#) and the owner or operator of the overhead high voltage line has failed to comply with the provisions of § [59.1-410](#).

B. Any person responsible for the work who violates the requirements of § [59.1-408](#) and whose subsequent activities within the vicinity of overhead high voltage lines cause damage to utility facilities or cause injury or damage to any person or property shall indemnify the owner or operator of such overhead high voltage lines against all claims arising from personal injury or death, property damage, or service interruptions, together with attorneys' fees and other costs incurred in defending any such claims directly resulting from work in violation of § [59.1-408](#).

C. Except as provided in subsection A, nothing in this chapter shall be construed or applied so as to alter the duty or degree of care applicable to owners or operators of overhead high voltage lines with respect to damage to property, personal injury or death.

D. Except for the rights provided to the owner or operator of the overhead high voltage line in subsection B, nothing contained in this chapter shall be construed to alter, amend, restrict, or limit the exclusive remedy provisions of § [65.2-307](#).

(1989, c. 341; 2003, c. 364.)